

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JACQUELINE A. WARNER,

Plaintiff,

v.

CMG MORTGAGE INC., ET AL.,

Defendants.

Case No. 15-cv-01835-YGR

**ORDER RE: PLAINTIFF'S FAILURE TO FILE  
PROPER OPPOSITIONS TO DEFENDANTS'  
MOTIONS TO DISMISS, CONTINUING  
HEARINGS**

The remaining defendants have filed motions to dismiss *pro se* plaintiff Jacqueline Warner's First Amended Complaint (Dkt. No. 34 ("FAC")), currently set for hearings on August 4, August 11, and August 25, 2015. (Dkt. Nos. 46, 52, 55.)<sup>1</sup> The Court hereby **CONTINUES** the hearings to Tuesday, **September 1, 2015**, at **2 p.m.** in Courtroom 1 of the Federal Courthouse located at 1301 Clay Street in Oakland, California. All three motions shall be heard on that calendar pending further notice from the Court.

Pursuant to this Court's Civil Local Rule 7-3(a), plaintiff was required to file either a brief opposing each motion to dismiss her lawsuit, or a notice that she does not oppose dismissal. Said opposition briefs were required to comply with other applicable rules, including Civil Local Rule 7-4. Instead, in response to the pending motions, plaintiff has filed numerous "notices" in multiple parts that are largely unintelligible or premised upon a mistaken understanding of the applicable rules. Plaintiff's various responsive filings, instead of addressing the merits of defendants' motions and presenting legal argument, typically (1) state that plaintiff "does not

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<sup>1</sup> The Court hereby **DENIES** as moot defendant CMB Mortgage Inc.'s motion to dismiss the initial complaint (Dkt. No. 13), subsequently joined by defendant Orange Coast Title Company, because plaintiff subsequently filed an FAC pursuant to Federal Rule of Civil Procedure 15(a)(1)(B). Thus, the hearing on that motion set for July 28, 2015 is **VACATED**.

consent to any new contract offer,” (2) indicate defendants “gave up all claims and defenses and standing to make any claim including the subject ‘MOTION TO DISMISS,’” and (3) attach copies of the defendants’ briefs with handwritten notes on each page indicating they were returned to sender and are therefore “VOID and UNLAWFUL and without effect” pursuant to the Uniform Commercial Code. (*See, e.g.*, Dkt. Nos. 50 at 4, 57 at 5, 57-1 at 2.)

Defendants have brought motions that argue plaintiff’s First Amended Complaint fails to state a claim as a matter of law. *See* Fed. R. Civ. P. 12(b)(6). Defendants Ally Bank and Ally Financial, Inc. also argue the Court lacks subject-matter jurisdiction over this action. *See* Fed. R. Civ. P. 12(b)(1). If the Court grants the motions, the case will likely be dismissed. *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007) (holding that in order to survive a motion to dismiss, a complaint must allege “enough facts to state a claim to relief that is plausible on its face”). Plaintiff’s filings do not comply with the applicable rules and the Court therefore construes the pending motions as unopposed. If plaintiff wishes to oppose the pending motions to dismiss, she shall file a proper opposition brief. The Court hereby extends plaintiff’s time to file an opposition. By no later than **July 22, 2015**, plaintiff shall file a *single* opposition brief of no more than 25 pages addressing all three motions to dismiss and the legal arguments contained therein. If plaintiff fails to file an opposition brief by the deadline, the motions shall be deemed unopposed and the case may be dismissed for “failure to prosecute,” that is, a failure to meet deadlines and keep the lawsuit moving forward. Defendants’ replies thereto shall be filed by **July 30, 2015**.

The Court further notes that Ms. Warner may seek assistance at the Court’s Legal Help Center. The Legal Help Center may assist persons who do not have lawyers if they make an appointment. The Legal Help Center’s phone number is (415) 782-8982 and its website is <http://cand.uscourts.gov/helpcentersf>.

This Order terminates Docket Number 13.

**IT IS SO ORDERED.**

Dated: July 7, 2015



**YVONNE GONZALEZ ROGERS**  
**UNITED STATES DISTRICT COURT JUDGE**